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8 **UNITED STATES DISTRICT COURT**
9 **CENTRAL DISTRICT OF CALIFORNIA**
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11 ROBERT MAGNET,

12 Plaintiff,

13 v.

14 FRANCK'S LAB, INC., dba FRANCK'S
15 COMPOUNDING LAB, FRANCK'S
16 PHARMACY, INC., FRANCK'S
17 MANAGEMENT, LLC, FRANCK'S
HEALTHY LIFESTYLES, LLC, KENT
W. SMALL, M.D.; MACULA & RETINA
INSTITUTE and DOES 1 through 300,
inclusive,

18 Defendants.
19

Case No. 2:13-cv-7602-ODW (MANx)

**ORDER TO SHOW CAUSE WHY
THIS COURT SHOULD NOT
REMAND FOR LACK OF SUBJECT
MATTER JURISDICTION**

20 The Court has received the Notice of Removal from Defendants Franck's Lab,
21 Inc., dba Franck's Compounding Lab; Franck's Pharmacy, Inc.; Franck's Healthy
22 Lifestyles, LLC; Paul W. Franck; and Anthony James Campbell ("Defendants").
23 However, the Court is not convinced that it has subject matter jurisdiction over this
24 action. When a defendant attempts to remove an action from state court, the Court is
25 "obligated to consider *sua sponte* whether we have subject matter jurisdiction" over
26 the instant claims. *Valdez v. Allstate Ins. Co.*, 372 F.3d 1115, 1116 (9th Cir. 2004).

27 Defendants cite diversity of citizenship as a basis of subject matter jurisdiction
28 under 28 U.S.C. § 1332. Defendants' Notice of Removal asserts that Defendants are

1 all citizens of the State of Florida and that “Plaintiff is a resident of the County of Los
2 Angles, State of California.” (Notice of Removal ¶ 2.) Nevertheless, for the purposes
3 of complete diversity, a natural person’s citizenship is “determined by [his] state of
4 domicile, not [his] state of residence.” *Kantor v. Warner-Lambert Co.*, 265 F.3d 853,
5 857 (9th Cir. 2001). Residency allegations alone are inadequate to establish
6 citizenship on removal in light of the strong presumption against removal jurisdiction.
7 *See id.* at 857. After carefully examining Defendants’ Notice of Removal, it appears
8 that Defendants cite no objective facts beyond a statement of residency to establish
9 Plaintiff Robert Magnet’s domicile. Accordingly, the Court hereby **ORDERS**
10 Defendants to show cause in writing no later than **October 31, 2013**, why this action
11 should not be remanded for lack of subject matter jurisdiction. Defendants must
12 clearly establish diversity of citizenship. Plaintiff Robert Magnet may file a
13 simultaneous brief on this matter, if he so chooses. No oral argument on this matter
14 will be heard unless ordered by the Court.

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17 **IT IS SO ORDERED.**

18
19 October 21, 2013

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22 **OTIS D. WRIGHT, II**
23 **UNITED STATES DISTRICT JUDGE**
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